

HOUSE BILL No. 1698

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-14-8; IC 13-17-3-16.

Synopsis: Environmental rulemaking and rule variances. Prohibits the issuance of certain environmental variances if rulemaking requirements are not met. Allows the water pollution control board to adopt rules for the issuance of variances from the water quality standards for mercury. Allows the air pollution control board to adopt rules to limit mercury air emissions rates of certain facilities. Requires rulemaking concerning certain air emissions of mercury, lead, and other hazardous materials.

Effective: Upon passage; July 1, 2005.

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January 19, 2005, read first time and referred to Committee on Environmental Affairs.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1698

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 13-14-8-8 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) Except as
3 provided in section 9 of this chapter, if a person who is affected by a
4 rule adopted by a board believes that the imposition of the rule would
5 impose an undue hardship or burden upon the person, the person may
6 apply to the commissioner for a variance from the rule.
7 (b) The commissioner may hold a public hearing on an application
8 submitted under subsection (a).
9 (c) If the commissioner determines that immediate compliance with
10 the rule would impose an undue hardship or burden upon the applicant,
11 the commissioner, except as provided in **subsection (e) and** section 9
12 of this chapter, may grant a variance from the rule for any period not
13 exceeding one (1) year.
14 (d) Upon the request of an applicant, the commissioner may renew
15 an expired variance if the commissioner determines that compliance
16 with the rule would continue to impose an undue hardship or burden
17 upon the applicant. Except as provided in section 9 of this chapter,

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each renewal may be granted for a period not exceeding one (1) year.

(e) After July 1, 2005, if the air pollution control board fails to meet a deadline under section 10(d) of this chapter, the commissioner may not issue a variance to a person under rules adopted under section 10(a) of this chapter until the board completes the rulemaking task for which the deadline was missed.

SECTION 2. IC 13-14-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The water pollution control board may adopt rules that:

(1) allow the commissioner to issue a variance to a person from the water quality standards for mercury using a streamlined procedure; and

(2) require that the person that applies for the variance take specific actions to make tangible and significant reductions in the mercury levels in the discharge not caused by air deposition of mercury.

(b) The variance rules of the water pollution control board adopted under subsection (a)(1) must establish criteria to allow, without detailed analysis or applications by the person that applies for the variance, for a determination that the imposition of the rule from which the variance is sought would impose undue hardship or burden upon the person.

(c) The air pollution control board may adopt rules for facilities that have the potential to emit into the air more than two hundred (200) pounds per year of mercury or compounds that include mercury. The rules must require coal-fired electrical power generation facilities to meet a mercury emissions rate of at least ninety percent (90%) reduction of mercury based on measured inlet conditions for the source.

(d) The air pollution control board must adopt the rules referred to in subsection (c) as follows:

(1) Begin the rulemaking process before July 1, 2005.

(2) Provide the notice of rulemaking required by IC 13-14-9-4 before March 1, 2006.

(3) Preliminarily adopt the rules before January 1, 2007.

(4) Adopt the rule before June 1, 2007.

(e) A board may adopt rules under IC 4-22-2 to specify the following with respect to any of the board's rules:

(1) Criteria to define what constitutes an undue hardship or burden, as used in section 8 of this chapter, for the purposes of that rule.

(2) Procedures for making determinations on applications for

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variances from that rule.

SECTION 3. IC 13-17-3-16 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
1, 2005]: **Sec. 16. The board shall adopt rules and standards that
limit the emission to air of mercury, lead, and other hazardous
materials that:**

(1) persist or bioaccumulate in the environment; and

**(2) contribute to levels in water that exceed the water quality
standards established under IC 13-18-4-1.**

**The air emission limits must be sufficient to ensure that, under the
worst case operating conditions, the air emissions during a rainfall
event that is likely to occur at least once a month will not cause the
rain to exceed the water quality standards.**

SECTION 4. An emergency is declared for this act.

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